

**REMARKS**

Claims 1, 3, 4, 6-8 and 11-13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ko et al. (U.S. Patent No. 6,724,705) (hereinafter "Ko") in view of Kobayashi et al. (U.S. Patent Application Publication No. 2004/0042363) (hereinafter "Kobayashi"). Claim 2 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Ko in view of Kobayashi and further in view of Takeshita (U.S. Patent No. 6,556,524) (hereinafter "Takeshita"). Claim 5 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Ko in view of Kobayashi and further in view of Yonemitsu et al. (U.S. Patent No. 5,592,450) (hereinafter "Yonemitsu"). Claims 9 and 10, while objected to as being dependent upon a rejected base claim, would be allowable if rewritten in independent form.

The outstanding rejections under 35 U.S.C. § 103(a) are respectfully traversed because each of them apply Kobayashi. Applicants respectfully submit that Kobayashi cannot be applied as prior art under 35 U.S.C. 103(a) in this application because it does not qualify as prior art under 35 U.S.C. § 102(e).

Applicants respectfully submit that 35 U.S.C. § 102(e) provides that a published U.S. patent application is effective as prior art under 35 U.S.C. § 102(e)(1) as of the application's effective U.S. filing date, which can include an international application filing date, if the following three conditions are met: (1) the international application was filed on or after November 29, 2000, (2) the international application designated the U.S., and (3) the international application PCT publication (by WIPO) was in the English language. From reviewing PCT WO 02/061567 A1, which Applicants understand is the WIPO publication of PCT/JP01/10921, it appears that at least item (3) of the foregoing items (1)-(3) is not met because the WIPO publication was not printed in the English language (i.e., it was printed in the

Japanese language). Applicants attach hereto a copy of the cover sheet of the PCT WO 02/061567 A1 document which Applicants respectfully submit includes an indication at item (26) that the language of the international publication is Japanese. Further, it is respectfully submitted that because the PCT WO 02/061567 A1 document published on August 8, 2002, it also does not qualify as prior art against the instant application under any section of 35 U.S.C. § 102. Accordingly, if Applicants' understandings are correct, the U.S. Published Kobayashi Application does not qualify as prior art under 35 U.S.C. § 102(e). If Applicants' understandings are incorrect in any of these respects, it is respectfully requested that the Examiner provide an appropriate explanation. Otherwise, all of the outstanding rejections under 35 U.S.C. § 103(a) should be withdrawn because they all apply Kobayashi.

The Examiner is thanked for the indication that claims 9 and 10, while objected to as being dependent upon a rejected base claim, would be allowable if rewritten in independent form. However, Applicants respectfully request that the objections to these claims be withdrawn for at least the foregoing reasons why the base claims are not properly rejected under 35 U.S.C. § 103(a).

### CONCLUSION

In view of the foregoing, Applicants submit that the pending claims are in condition for allowance, and respectfully request reconsideration and timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution. A favorable action is awaited.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0573. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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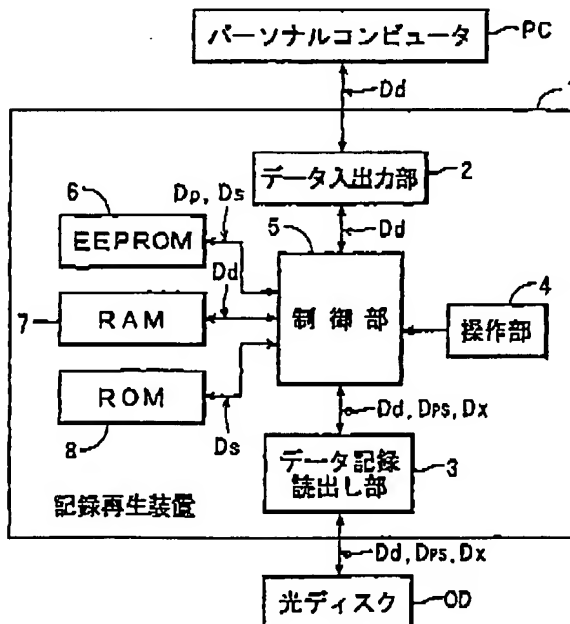
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[続表有]

(54) Title: METHOD OF RECORDING DATA, RECORDING MEDIUM AND RECORDING DEVICE

(54) 発明の名称: 記録データの記録方法、記録媒体および記録装置



(57) Abstract: A method of recording data (Dd) on a recording medium (OD) such as a unloadable optical disk. In recording the recording data (Dd) on the recording medium (OD), recorded are device specifying data for specifying a recording/reproducing device (1) allowed to read the recording data (Dd) (e.g., a serial No. data (Ds) on the corresponding recording/reproducing device (1), or authentication program data (DPS) containing the serial No. data (Ds)) and a judging program which is read by the recording/reproducing device (1) before the read of the recording data (Dd) recorded on the recording medium (OD) and adapted for judging the coincidence between the recording/reproducing device (1) and the recording/reproducing device (1) specified according to the recorded device specifying data.

PC...PERSONAL COMPUTER  
1...RECORDING/REPRODUCING DEVICE  
2...DATA INPUT/OUTPUT UNIT  
5...CONTROL UNIT  
4...OPERATION UNIT  
3...DATA RECORDING/READING UNIT  
OD...OPTICAL DISK

[続表有]

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